

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) Hitch Enterprises, Inc.;)
(2) David D. Duncan; and)
(3) Sagacity Inc., on behalf of)
themselves and all others similarly)
situated,)

Plaintiffs,)

v.)

Case No. CIV-11-13-W

(1) Cimarex Energy Co.;)
(2) Key Production Company, Inc.;)
(3) Magnum Hunter Production, Inc.;)
(4) Prize Energy Resources, L.P.; and)
(5) Gruy Petroleum Management)
Company (n/k/a Cimarex Energy)
Company of Colorado),)

Defendants.)

**MOTION FOR ORDER AWARDING FEES
AND EXPENSES UNDER 28 U.S.C. § 1927**

The conditionally certified Plaintiff Class moves the Court for an order awarding fees and expenses under 28 U.S.C. § 1927 which provides:

Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct.

Messrs. John Jacob Pentz III and Stephen G. Griffis are attorneys admitted to practice in this federal court. They are co-counsel for objector Kathrine

Riesen Lathrop who, as one (1) member out of 29,688 Class Members, filed an objection to the \$16.4 million dollar class action settlement pending in this Court. Dkt. Nos. 96, 123. Ms. Lathrop's allocated amount of the Settlement Fund is approximately \$25.00. Mr. Pentz and Mr. Griffis have earned a reputation as "professional objectors", attorneys who use the ability to object to a class action settlement to attempt to extort money from the Settlement Fund to the detriment of Class Members and Class Counsel. They file factually and legally inaccurate objections which hold up approval of the class action settlement and significantly delay distribution to the Class Members if an appeal is filed which Messrs. Pentz and Griffis have done in other cases and will likely attempt in this case. The accompanying memorandum in support of this motion details how they have earned their reputation.

Section 1927 authorizes the federal district court to award the excess costs, expenses, and attorneys' fees engendered by attorneys who unreasonably and vexatiously multiply and prolong proceedings. Although bad faith may be evident, it is not required under 28 U.S.C. § 1927. The same is true under Rule 11. The Plaintiff Class asks this Court to award it \$10,000.00 in expenses and attorneys' fees against Messrs. Pentz and Griffis personally and jointly and severally, for their misuse of the class action

objection procedure to extort Settlement Funds from the Class with an unfounded objection.

Respectfully submitted,

/s/ Rex A. Sharp
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Settlement Class Counsel

CERTIFICATE OF SERVICE

On April 11, 2013, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to all ECF registrants who have appeared in the case, including but not limited to the following ECF registrants: ndavis@swlaw.com, jkilroy@swlaw.com, jyates@swlaw.com, bwelsh@gablelaw.com, jjpentz3@gmail.com, and scgriffis@gmail.com.

/s/ Rex A. Sharp